



MICHIGAN INSURANCE COALITION
The Insurance Government Affairs Organization for Michigan

July 19, 2002

The Honorable Frank M. Fitzgerald
Commissioner
Office of Financial and Insurance Services
P.O. Box 30220
Lansing, MI 48909

Re: Insurance Scores

Dear Commissioner Fitzgerald:

Thank you for inviting follow-up comments from interested parties concerning your series of public hearings on the use of insurance scores based upon consumer credit information. As participants in this process, we have benefitted from the dialogue and the exposure to the varied viewpoints represented at these hearings. Although we do not want to add to the daunting task of studying the voluminous materials you have already received, we think it is important to address certain misinformation that was offered during testimony at last night's hearing in Detroit.

Mr. Birnbaum testified on behalf of The Center for Economic Justice that Michigan's Essential Insurance Act ("EIA") prohibits the use of insurance scores to rate the policies regulated under the EIA scheme. We think it is important to point out that Mr. Birnbaum's testimony was incorrect and misleading to those in attendance at the hearing. While the EIA as originally enacted clearly placed significant limitations on the use of insurance scores as a basis for rating, it never outlawed their use altogether. Moreover, Mr. Birnbaum's testimony ignored the 1996 amendment contained in Public Act 514 ("Section 2110a") which specifically permitted the use of factors such as insurance scores for premium discount plans.

As originally enacted, the EIA contained significant classification and rating constraints that would have prohibited the use of insurance scores to underwrite or rate some policies of automobile insurance or home insurance. However, the EIA has always had a provision that exempted insurance written on a group, franchise, blanket policy, or similar basis ("group policies") from the rating constraints. Consequently, from its inception, the EIA permitted the use of insurance scores with respect to premium discounts and surcharges for group policies.

In Section 2110a, the Michigan Legislature specifically encouraged insurers to use new, additional factors, such as insurance scores, in their premium discount plans. Beginning on January 13, 1997, insurers could utilize credit scores as a factor in their discount plans if they met three criteria:

1. The plan must be uniformly applied to insureds; and
2. The plan must be consistent with the purposes of this act; and
3. The plan must reflect reasonably anticipated reductions in losses or expenses.

Compliance with the statutory criteria for premium discount plans that utilize insurance scores as a factor is really no more difficult than other rate filings made by Michigan insurers. In today's computerized age, rating plans are *uniformly applied* through automated systems that are programmed consistent with filings made with OFIS. Based upon the information provided by agents or insureds at application, or through changes requested mid-term, rating systems automatically apply the rating plan factors. Accordingly, compliance with the uniform application requirement is routinely met by insurers, and is susceptible to oversight and review for conformity by OFIS.

For a premium discount plan to be *consistent with the purposes of this act* it must satisfy the other applicable provisions of the Insurance Code¹. Put another way, this requirement clarifies that Section 2110a does not authorize premium discount plans based upon the criteria in this single-section amendment unless such plans comply with all other applicable Insurance Code provisions. As with the first criterion, insurers routinely demonstrate compliance with this criterion at the time they make rate filings in connection with their premium discount plans, which are subject to the ongoing OFIS oversight. The very purpose of the documentation required by OFIS at the time those filings are made is to demonstrate how the credits within the rate plans *reflect reasonably anticipated reductions in losses or expenses*.

During the Detroit hearing, Mr. Birnbaum obfuscated the applicable statutory standards by claiming that Michigan law requires premium discount plans to be consistent with the purposes of the EIA, rather than the Insurance Code. No such requirement appears in the Insurance Code, nor does Mr. Birnbaum's subjective version of EIA's purposes. As outlined above, premium discount plans are subject to the applicable provisions of the EIA, subject to the noted exceptions. Moreover, Mr. Birnbaum repeatedly analyzed insurance scores based upon his understanding of Michigan's statutory criteria without acknowledging that those criteria apply to the entire plan within which insurance scores may legally be a factor.

In sum, Michigan law clearly permits the use of insurance scores in rating plans that apply to group automobile and home insurance, and clearly encourages the use of insurance scores as a factor in premium discount plans for those coverages sold on a non-group basis. It is regrettable that misleading testimony to the contrary was offered during the Detroit hearing, but we appreciate the opportunity to provide this clarification for the record.

Sincerely,



Teri Morante

¹See, e.g., MCL 500.2109 and MCL 500.2403 for the ratemaking standards for non-group and group policies, respectively.